

PR

ENGLISH BATH, Bligh-street. OPEN DAILY

**W. WILLINGTON**, to Pickford's, per Lady Jocelyn. Small parcels ls. 148, Prince-st., Sydney.

**TWO AND A-HALF PER CENT.** Two and a-half per Cent. 2½ per Cent.—Professional Men, Landlords, Tradesmen, Shopkeepers, study your interest, and employ **B. F. KELLY**, collector, 253, Albion-street. Rights balanced and accounts made out.

**TWO CONTRACTORS.**—Ballast and Rubble taken at Cuthbert's Wharf.

**UDGERE and SOPALA.**—Express Vans will leave on MONDAY. GEORGE FOX and CO.

**MICHAEL CHAPMAN** (late of Beaumont and Chapman, house painters and decorators) begs to notify to the public that he is now carrying on business as heretofore, at the "Old Shop," 470, George-street, near Market-street, in connection with his brother, under the

**A** **IRD-STREET, PARRAMATTA.**—Mrs. FOX proposes to receive her Pupils on the 27th January.

**A** **IRD-STREET, Parramatta.**—Mrs. THOMAS FOX receives and instructs in the usual branches of an accomplished education a limited number of pupils. Terms can be ascertained on application at Messrs. SHERKIFF and DOWNING'S, Sydney; or to Mrs.

**FOX**, at her residence.

**M**RS. KEAN'S Classical and Commercial Boarding and Day School, Cleveland House, Cleveland Paddocks. School duties will be resumed on **MONDAY, January 18th**. A few vacancies for boarders and day pupils.

**S**T. PAUL'S COLLEGE.—The Post advertised on the 12th instant, as vacant, has been fill'd-up.  
W. H. SAVIGNY, Warden.

**MILITARY SETTLEMENTS FOR NEW ZEALAND.**  
—Extract from the New Zealand Government  
Gazette, dated 12th September, 1863:—  
“Colonial Secretary’s Office,  
“Auckland, 3rd August, 1863.  
“His Excellency the Governor has been pleased to direct  
the publication, for general information, of the following  
provisions, which have been submitted to the Northern

to perform the after-mentioned military services.

(Signed) ALFRED DONETT.

"CONDITIONS UPON WHICH LAND, IN THE NORTHERN ISLAND OF NEW ZEALAND, WILL BE GRANTED TO SETTLERS WILLING TO PERFORM THE AFTER-MENTIONED MILITARY SERVICES:—

"First. No man above the age of forty years will be

accepted, and every applicant will be subject to an examination by an officer appointed by the Governor, and must produce certificates of good character, health, and general fitness for the service as such officer shall require.

"Second. Each accepted applicant, if not already in the Northern Island, will be provided with a free passage to a port to be designated by an agent of the Governor. Before embarkation he will be required to sign a declaration and consent to the effect that he understands, and will be

"Third. On arrival the men will be enrolled in the militia for service in the Northern Island of the colony, and formed into companies, constituted as nearly as may be as follows:—1 captain, 1 subaltern, 5 sergeants, 5 corporals, 100 privates.

"Fourth. Each man, according to his rank, will be entitled to pay, rations, and allowances, until he is autho-

"Fifth Settlements will be surveyed and marked out at the expense of the Government in such localities in the Northern Island as the Government may select for that purpose.

"Sixth. Each settlement will comprise not less than 160 town allotments and 100 farm sections.

"Seventh. A stockade on the most eligible site in each

"Ninth. Farms will be laid out around, or as near as conveniently may be to the stockade, in one acre allotments.

"Tenth. Every settler under these conditions who, upon being relieved from actual service, receives a certificate of good conduct, will be entitled to one town allotment and one farm section.

"Eleventh. Priority of choice for each rank will be de-

"Twelfth. After taking possession, he will be entitled to receive rations free of cost for twelve months, upon the same scale as supplied to her Majesty's troops. He will be allowed to retain possession as a militiaman of his arms and accoutrements, and he will be supplied with ammunition for use according to militia regulations."

" Fourteenth. During such three years he will be liable to be trained and exercised as other militiamen, and, whenever a portion only of the militia shall be called out for actual service, each settler will be deemed to be a volunteer militiaman, and will be required to serve as such any where and at any time as may be ordered by the commanding officer.

"Fifteenth. On the expiration of three years from his enrolment, each settler having fulfilled the conditions, but not otherwise, will be entitled to a Crown grant of the town allotment and farm section allotted to him, and will, thenceforth, be subject only to the same militia services as other colonists.

"Sixteenth. Any settler will be permitted to dispose of his land to any person approved of by the Governor, and such person undertaking to be subject to the same liabilities will be entitled to the same privileges as the settler whose place he takes.

"Seventeenth. In case of the death of any settler before he shall have become entitled to his Crown grant, the land to which he is entitled will be granted to his wife or children, or to such other persons as he may have appointed by will."

or it may be taken for the location of another settler under three conditions, or for any other purpose; but the value thereof in such latter case will be determined by valuation, and the amount paid by the Government to the settler's widow or children, or other person appointed as aforesaid.

**FORM OF DECLARATION AND AGREEMENT.**  
 "I, —, do hereby declare that I fully understand the

NOTA.—The scale of pay referred to in Article 4 is:—  
Captains, fourteen shillings and sevenpence; lieutenants,  
nine shillings and sixpence; ensigns, eight shillings and  
threepence; sergeants, three shillings and sixpence; corporals,  
three shillings; privates, two shillings and sixpence.  
Free rations, the same as issued in the *Armed Forces*.

groceries, rum (in the field), fuel and lights. The articles of clothing, &c., issued will be two blankets, one blue serge shirt, one pair trousers, one pair gaiters, one forage cap, two pairs of boots, one great coat, haversack, knife, fork, spoon, tin plate, and pannikin."

place of shelter, either in huts or tents, until the men are located on their lands, and during the period they receive such shelter the Government will also issue to them rations of fuel, light, and provisions of like quality and quantity as are issued to the wives and children of soldiers in Her Majesty's service. I am also authorized to issue orders for an advance of pay for those men who

(Eleven pounds sterling), from the date of embarkation, to every man who may desire it, the order to be made payable in Sydney, after the vessel in which the man is embarked shall have left Port Jackson, provided the order is accompanied with a certificate that the man is on board. These orders may also be made payable in New Zealand. In all cases pay will commence from the date of embarkation. I shall shortly visit Sydney for the purpose of examining the establishment.

and at the principal towns on the lines of railway, of which due notice will be given in the newspapers; at the same time I shall be glad to hear by letter from any who propose to avail themselves of these conditions. All men offering must be provided with certificates as to character. All married men will be sent to Auckland in the same ships with their families.

(Signed) **GEORGE DEAN PITT.**

**COMMISSARIAT NOTICE**—Notice is hereby given that the Commissariat Department in New Zealand is prepared to give liberal prices for sound HORSES, delivered in AUCKLAND, both of the heavy draught breed, and of a lighter description, suitable for riding or pack animals. The purchases to be made at Auckland, the owners shipping at their own risk, and the Commissariat in

**ELEGANT** Rosewood Cottage **PIANOFORTE** for  
SALE (a bargain), only £35. 100, Castlereagh-st.

**OYSTER SALOON.** Oyster Saloon.—To be **SOLD**,  
one of the best Oyster Saloons in the city, well  
furnished, plenty of room, and prices very moderate; a sure  
fortune in a short time. Apply 62, York-st.

100



## AMENDMENT OF THE STATUTE LAW OF NEW SOUTH WALES.

The subject of this paper is of one of considerable interest, and great public importance.

The facts which I have collected, and the views which I entertain respecting it, are the result of frequent inquiry and careful thought. They may prove useful, therefore.

On the founding of the colony of New South Wales (1788), and by virtue of that enterprise, many Imperial enactments, then in force in England, came into force here, as fundamental portions of the Statute Law of the parent country, and applicable, at the same time, to the circumstances and necessities of the young community.

Some of those Imperial enactments are still in force within the colony. Others have been amended or altered, displaced, or otherwise dealt with (as regards New South Wales itself), by enactments of its various Legislative Councils and Parliaments, that it is now difficult to determine whether, or to what extent, they are still operative here. While some have been expressly repealed by local enactments.

It would seem, too, that between 1788 and the close of 1824, the "Governors, or other persons administering the Government of the colony, from time to time," without waiting for proper legislative authority, "made and published proper proclamations, orders, rules, and regulations, for its peace, welfare, and good government," which render it necessary that those who had "advised, issued, or acted under" the same should be protected, by a public ordinance, "from vexatious suits," instituted in consequence (see 5th Geo. IV., No. 2). But those have not found a place in our statute-books, and may fairly be assumed to have been of a temporary character only.

The general public statutes that have been passed in this colony, up to a recent date, were collected, in 1862, and published by Mr. Cowper's Government, in four large volumes, of 3448 pages, exclusive of index, title, &c. The collection begins with the 5th Geo. 4, No. 1 (28th September, 1824)—the year in which a Legislative Council was first granted—and extends to the 25th Vic., No. 20 (20th January, 1863). Besides the statutes thus comprised, there are those of the 36th Vic. (eighteen in number), that became law between the 22nd of August and the 20th of December, 1862—two others of the same session, reserved for Her Majesty's approval (which they have since received)—and those of the present session. In all, 903 public statutes have been made in New South Wales, since it obtained a Legislative Council up to the now session—(of which number there have been 203 since the inauguration of representative Government in 1856).

A few of these 903 (though a very few)—I think eight only—were disallowed the Royal sanction. Of the remaining 895, some adopted, and incorporated with themselves (in our Local Statute Law), about fifty Imperial Acts, or portions of fifty Imperial Acts, passed in England since the establishment of the colony. Others were repealed, or amended, or altered, and have therefore expired by limitation of time. A number have lapsed owing to the exhaustion (as to speak) of their subject matter (the Convict system, for instance). 199 are amending Acts, and 123 have been suspended or repealed, in part or altogether.

Now these 895 statutes relate to nearly every variety of subject—from "An Act to make Promissory Notes and Bills of Exchange payable in Spanish Dollars, available as if such Notes and Bills had been drawn payable in sterling money of the Realm," or "An Act to compel Married Men to withdraw their Wives from the female factory at Parramatta, or to maintain them there, after the expiration of their sentences," down to the Acts, "to make provision for encouraging the growth of cotton," and to prohibit future grants of public money in aid of "public worship," or to that bold experiment, "An Act to alter the succession to real estates in cases of intestacy."

Church and State, Government and police, law and equity, Vice-Admiralty, and insolvency, mines and minerals, lands and roads, bridges and railways, Immigrants from the old country, aborigines, and Chinese, banks, public companies, and societies, Judges, Justices, and public officers—all manner of trades and professions, crimes and criminals, education and newspapers, marriage laws for five or six different denominations, masters and servants, debtors and creditors, the sick and the needy, and various diseases in sheep and cattle, with many other matters of public importance, or individual concern, have been legislated for, in those statutes, at divers times, during the last forty years. And the several enactments or provisions applicable to particular subjects require, frequently, to be traced through a series of statutes, in which they are to be found scattered, here and there, throughout the 3448 pages of our local statute-books already spoken of; having been passed at varying intervals, from twelve months to two or three times as many years—sometimes under titles that make no reference to them, and in Acts that have no proper connection with them.

Thus, there are about forty-seven Acts, or parts of Acts, now in force in the colony which relate to criminal offences: nearly as many which relate to the Supreme Court as a Court of Civil, Criminal, and Equitable Jurisdiction; fifteen which relate to insolvency; eight to the Courts of Quarter Sessions; seven to the Church of England; seven to the Wesleyan Congregationalists; and twelve to the various other religious bodies. The number of other statutes might be grouped in like manner, under leading heads, collected from the four great volumes in which they are now stored.

Such being the condition of our statute law, it will be readily understood that even the ablest and most experienced judge, or the best read barrister or solicitor, with all the assistance which daily practice and constant reference afford, has often difficulty in discovering and determining what are the legislative enactments that now govern or affect any particular question submitted to him. It is only, at times, by much labour and close research that he is enabled to do so; and portions of such enactments have been known to escape notice even in well considered judgments, and careful deliberate opinions. (It was mainly by overlooking the 17th Vic. No. 32, that most of the certificates of conformity granted to insolvents by the various Chief Commissioners and confirmed by Supreme Court, from the 7th Vic. No. 19, to the 25th Vic. No. 8, have been held to be imperative and void by that Court. *Byrne v. Bampill*, 1 Sup. C. 147.) What, then, must be the position of the country magistrate, bound to administer that statute law in the numerous, pressing, and ever-varying cases that ever come before him, as the poor man's judge—often on the spur of the moment, and without professional assistance of any kind.

And what is the position of any private person requiring to know, and desirous of ascertaining for himself, the state of that law upon any subject affecting him?

I know, from long experience, that one of the most difficult tasks any man can undertake is the preparation of a legislative enactment (or bill convertible into an enactment), where different interests are at stake, complicated questions to be dealt with, and a just, well-considered, and comprehensive measure produced. Let any one who thinks otherwise attempt the task, and he will soon admit that he was mistaken in his first impression. Still, it must be conceded that the difficulty of determining what, exactly, is the statute law affecting numerous matters amongst us is very much enhanced by this—that, whilst many of the local Acts are framed with great care and ability—and some are masterly performances—many others must either have been very hurriedly, not to say carelessly, drawn, or dealt with in their passage through Parliament, judging from the defective arrangements both of the subject matter, and of the various sections and clauses into which they are divided;—from the redundancy of some of their provisions with those of

earlier enactments, left un repealed, in terms at least, (whether repealed in effect, or not). Sometimes, indeed, from the inconsistent provisions contained in Acts that are almost concurrent in date, but have been prepared without proper concert, or supervision,—and from the want, occasionally, of that accurate, practical knowledge of the subject matter that is essential to right legislation respecting it; as well as from the looseness or ambiguity of the language that has been too often employed to express the intention, even where that has been clearly entertained in the first instance.

There are two other fruitful sources of embarrassment—the tendency to legislate specially for particular events, or to meet particular decisions of individual Judges; and the tendency to deal with broad comprehensive subjects by piecemeal—helping statute upon statute, or clause upon clause, regarding them, year after year, instead of grappling with the whole subject at once in one consolidating and amending Act.

It would be easy, but needless, to instance examples of most of these defects and evils in our past legislation. The endless questions that arise upon the proper construction of the 5th Victoria No. 17, may be taken as a general illustration. A more specific one is furnished in the valuable but conflicting judgments of their Honours, the Chief Justice, and Mr. Justice Wise, in the Queen v. Garbutt (2 Sup. C. C. 35), when determining, or striving to determine, whether, according to the provisions of the 16th Vic. No. 36 sec. 4, and the 22nd Vic. No. 18, sec. 23, in case of the accidental absence of a Chairman of sessions, the justices present can adjourn the Court, and, on the following day, elect a Chairman, and proceed as an ordinary Court of Quarter Sessions. A third illustration may be had in an Act of 1861, the bill for which was drawn, altered, and re-altered by four different persons, with scarcely any reference to the other, and parts of which Act, therefore, are now thought to be beyond construction. A fourth may be found in the "Sale of Liquors Licensing Act of 1862," and the case of *ex parte Booth* (1 L. Sup. C. C. 22) decided upon it.

But our statute law is not only at fault in the several particulars already noticed. It is still more defective in that—that it is behind the legislation of the United Kingdom, as well as of most of the Australian colonies, in very many substantial and all important respects—in which marked improvements upon old legislation, or the common law (as the case may be), have been adopted by the Parliaments of those countries, during recent years—but have been disregarded here. For example, under the 16th and 17th Vics., c. 113, s. 102, the issues eliminated by the pleading, the questions to be decided, in all actions tried by the Superior Courts of Ireland, are determined either by agreement between the parties themselves, or by a Judge in Chamber, if they disagree—(and those questions are generally stated upon half a sheet of note paper)—before the cases go to a jury at all. If we had a similar enactment in New South Wales, as they do, and there would not be nearly so many new trial motions as there are, nor would the costs amount to nearly so much as at present. In like manner, if the equity side were reformed as those of the Courts of Chancery in Ireland and England have been, under the 13th and 14th Vics., c. 89, the 19th and 20th Vics., c. 60, and the 20th and 21st Vics., c. 77, the 21st and 22nd Vics., c. 27, and the 25th and 26th Vics., c. 42 and 46, years of time, and hundreds of pounds would be saved to individual suitors. The profession, in both its branches, would be benefited at the same time; for, instead of every bill that is now filed and prosecuted, there would be three or four, and costs would be duly paid. Whatever be the public impression, there cannot, in most cases, be a greater misfortune to a solicitor, at least, than a long protracted and expensive suit in equity. And if our present *Insolvency Acts* were repealed *en masse* (as they ought to be), and one consolidating and amending Act substituted for them, upon the basis of the English Acts, 12th and 13th Vics., c. 106, and the 24th and 25th Vics., c. 134, or of the Irish Act, 20th and 21st Vics., c. 60, or of the South Australian Act, 23rd and 24th Vics., c. 16, there then would be proper restraint upon the frauds and rascality for which our existing law offers a direct premium—in spite of every check that can be imposed under it. Nor is there any sufficient reason why the jurisdiction of the District Court Judges, and of Chairmen of Quarter Sessions, should not be considerably enlarged by legislation for that purpose, so as to include all civil actions in which the subject matter is within (say) £300 in amount, or value, and all criminal proceedings short of prosecutions for capital offences. It is questionable, also, whether those Judges (excepting the metropolitan ones) should not be invested with jurisdiction in insolvency in cases (arising within their respective districts) similar to those in which the Assistant Barriers of Ireland and the County Court Judges of England have jurisdiction in bankruptcy, under the 29th and 31st Vics., c. 60, and the 34th and 25th Vics., c. 134, &c. And it has been thought by some, that jurisdiction in Equity, by claim, might properly be conferred upon those District Court Judges, in cases like those in which the 16th Vic. No. 13 s. 1 gave that jurisdiction to the Supreme Court.

I shall now state what, in my opinion, are the proper remedies for the prevailing defects and evils in our existing legislation, and the proper preventative of like errors for the time to come. The Attorney or Solicitor-General should appoint a present statute book, or (at least) such portions of them as most require to be revised, in as many natural heads or divisions as the Acts which compose them are conveniently capable of. Thus, Criminal Law, Equity, and Insolvency, the District Courts, Real Property, Public Companies, Marriage Laws, Masters and Servants, &c., would form heads of subjects such as I refer to. And, having made that partition, he should select the best qualified person that can be found, either in the profession or out of the profession—having regard to that person's knowledge of a particular subject matter to be assigned to him, his attainments as a draughtsman, and other special aptitudes—then hand him a liberal fee (a just recompense for the thought, care, and labour that are expected of him),—and instruct him to consolidate into one bill all those provisions of the existing Acts relating to that subject which it is desirable to retain as law, (with such corrections of language and arrangement as may be necessary), and to repeal the same, at the same time, those substantial amendments which experience may suggest, or the nature of the subject and the wisdom of other legislatures may recommend—specifying, too, both as a guide to the draughtsman and a check upon his single judgment, what the more important of the desired amendments are, in the opinion of that Attorney or Solicitor-General—and providing for the repeal in express terms of all the then Acts upon the subject. Then, when the bill has been drawn, according to those instructions, it should be submitted to the Attorney or Solicitor General for his consideration and approval, section by section, and clause by clause; and, thus approved of, it should be carried through Parliament in an earnest, business-like way, and (so far as possible) in its integrity in all respects; for many excellent bills have been mangled by ignorant or inexperienced alterations in committee. Others have been allowed to lapse, after they have passed through committee, from sheer apathy of the persons entrusted with the carriage of them, or because they do not meet with the approval of some individual member of the House.

By these means, our statute law would be speedily and greatly simplified; we should have one comprehensive and well-considered Act upon every leading subject, instead of a number of ill-digested and conflicting ones, as is too frequently the case at present. And when a new Act, upon a new subject, becomes necessary, a similar course (to a large extent) should be adopted. Nothing can be more idle than to suppose that any one man, however gifted or experienced, can prepare all the bills, or nearly all the bills (whether single or consolidating), that are properly required by the Government of a great colony like this; and nothing can be more unworthy than the so-called recompense that is now allowed for that department of the public service. I believe the Parliament of Victoria grants £3000 a year for the preparation of bills to be submitted to it by the Government. And it is wise economy; for the Attorney-General of that colony is the man best qualified to select the objects of legislation, (which he does in the manner I have recommended for adoption here) to avail himself of the first talent, and greatest experience within it, as regards every matter or subject of intended legislation; and a badly-drawn Act, of general application, is a constant drain upon men's purses, as well as a frequent source of injustice. New South Wales might, therefore, afford (say) one-half the amount for a like purpose, instead of the one-third of that one-half, with which it now provides its Executive, for the preparation of its bills!

The present Government can scarcely be expected, during this session, at least, to devote much attention to any kind of legislation; but it is hoped that either it, or some other Government, will avail itself of an early opportunity to carry out the plain principles and simple method of legislation which I have ventured to recommend in this paper—or will devise some better means of placing our Statute Law upon a proper footing.

I am satisfied that the Government (be it whose it may) that will apply itself to that task honestly and resolutely, must earn a reputation far higher and more enduring than any that can spring from party tactics or party strife. The country is sick of the war of words and personalities that has been raging in the Assembly for months past; and there is no reform more needed than that of law reform.

The Bill to "Consolidate and Amend the Law of Insolvency," which was approved of by a select committee of the Legislative Council, in 1862, and the Bill to "Consolidate and Amend the Criminal Law," which is still before the Council, may be found useful in any scheme of general consolidation that may be adopted; and they illustrate the mode in which the whole of our Statute Law may be consolidated and amended.

## THE MUNICIPALITIES ACT OF 1858.

(By CHARLES ST. JERVIS.)

## CHAPTER III.

ELIGIBILITY—NOMINATION OF CANDIDATES; DISQUALIFICATIONS AND EXEMPTIONS; ADJOURNMENTS; ELECTIONS OR ABSENCE OF CHAIRMAN.

31. RETURNING-OFFICERS are to hold the meetings of electors, for the nomination of candidates "at noon," both for the first election and for all subsequent annual elections (clause 12). The Act does not fix the hour at which such meetings for the supply of extraordinary vacancies are to be held; but it is customary to hold these also at noon, for the sake of uniformity. All these meetings are to be held "at the court-house or town hall, or at any other place appointed by public notice for that purpose," except a church, chapel, or other place of public worship. The returning-officer is bound to be on the spot at noon to hold the meeting, or to deputize that duty, in the manner already indicated, to somebody else, who will attend punctually. If the meeting is not held, or is not held in accordance with the law will be committed. But if the returning-officer is on the spot, and commences to hold the meeting, he is not bound to press the business to an immediate conclusion, but may allow a reasonable delay for the arrival of other electors, who, it may be notified to him, are expected to take part in the proceedings. There must be no such delay, however, as to seriously inconvenience those electors who have attended punctually. And there should be no such delay unless a reasonable cause is assigned for the non-arrival of the person or persons in question. Mere excuses of punctuality on the part of the latter is not a sufficient cause, except in cases (arising within their respective districts) similar to those in which the Assistant Barriers of Ireland and the County Court Judges of England have jurisdiction in bankruptcy, under the 29th and 31st Vics., c. 60, and the 34th and 25th Vics., c. 134, &c. And it has been thought by some, that jurisdiction in Equity, by claim, might properly be conferred upon those District Court Judges, in cases like those in which the 16th Vic. No. 13 s. 1 gave that jurisdiction to the Supreme Court.

32. Clause 36 enacts that all annual elections shall be conducted "in the like manner, as nearly as may be, as the first election," therefore the same amount of notice ought to be given. But under clause 25 the election will be good in spite of any formal defect; or of any "publication" being out of time. All that is indispensable, therefore, is that sufficient notice be given to inform all parties concerned when and where the nomination is to take place. No particular form of notice is required. All that is necessary is that it should be in distinct terms.

33. "Any electors may nominate any other electors" for councillorship at these meetings (clause 12). No elector, then, can nominate himself. But although it is the practice to have nominations seconded, this is not indispensable. The returning-officer must receive and submit to the meeting every nomination by "an elector," or "another elector," whether seconded or not. None, however, but an elector can legally nominate or be nominated. If it be admitted that a proposer, or a person proposed, is not an elector, the proposition is not receivable. The returning-officer must not, by knowingly receiving an illegal proposition, aid in evading the requirements of the Act. But in receiving nominations a returning-officer acts ministerially, not judicially. He is not there to enquire whether a man be an elector or not, if the fact be on which there is any doubt. Nor must he act upon any private knowledge on the matter which he may happen to possess. If a man presents himself as an elector it must be assumed that he has a qualification, unless he admits that such is not the case.

34. If no more candidates are nominated than the number of councillors to be elected, the returning-officer has nothing to do but to declare the persons so nominated to be duly elected. If more than one person be proposed he is to call for a show of hands for each candidate separately (in the same order as their nomination), and to declare in whose favour such show of hands is. If, after he has so declared, no poll is demanded, he is then to declare that the candidates having the show of hands are duly elected. But any candidate, if present, may demand a poll; or, in the absence of the candidate, any four electors on his behalf. And it is to be presumed, as already stated, that every person assuming to act as an elector for this purpose is really one, unless he admits that he is not. When a poll is demanded it is to be taken on the seventh day after the day of nomination (i.e., on that day week), commencing at nine a.m., and closing at four p.m. The returning-officer should at once announce this fact, and if possible should also, at the same time, make the polling places. There is generally so much foreknowledge of the probabilities of a contest as will enable a returning-officer to make contingent arrangements for polling places.

35. The business will be greatly facilitated by getting, beforehand, a list of the persons who are to be nominated, and of their proposers and seconders (if seconded), so that the returning-officer may call upon each person in his turn. This may generally be done without difficulty. It rests with the returning-officer to determine the order in which the propositions shall be made. But custom has prescribed certain rules by which he ought to be guided. When, of two candidates, one is the retiring councillor, he should be first proposed. The other should be proposed according to the order in which they have come into the field as candidates, so far as this can be ascertained. If it cannot be ascertained the returning-officer must determine which shall have priority. But, in order to avoid even a semblance of partiality, it will be better, in such a case, to let the proposers determine the question of priority by lot, unless they can determine it by mutual arrangement. Where there are wards the nominations for each ward should be taken in the same order as such ward has been named in the Governor's proclamation. And the nominations of

the one ward should be closed before those for the next are called for. Before closing the nominations the returning-officer should ask if there are any other propositions, and should pause for a few moments before passing to the next business, to allow any elector present the chance of making a further nomination. At the annual election the auditors are to be chosen, and on that occasion, after all the candidates for councillors have been named, nominations for the auditors should be called for. The returning-officer should next call upon all the candidates present, in turn, to address the electors. If there are a number of persons to speak the returning-officer will have the right, under his general power of "making and enforcing all necessary regulations," of limiting the time for which each shall be allowed to speak. But no such limit should be imposed, unless it appears absolutely necessary in order to get through the business within a reasonable time. The show of hands should not be taken until after all the candidates have spoken or have had an opportunity of speaking. If possible, it is best to count the number of hands held up for each candidate, instead of guessing at it. Where the numbers of hands held up for two candidates are the same, the returning-officer declares the show to be in favour of whichever he thinks fit. Where there is to be a poll, it matters little how the show of hands is declared to be. It may often happen, however, where a municipality is divided into wards, that while in one ward there will be a sharp contest, there will in another be no contest.

It may often happen, also, that while there are many competitors for a seat in the council there will be no competition for the auditors' office. In such cases the returning-officer must declare the candidates unopposed to be duly elected, and must announce the poll for the contested office or offices.

36. We have already seen that no person can be legally elected to be a councillor or auditor who is not himself an elector. The other disqualifications are—1. Being a judge or chairman of any court of justice. 2. Holding any office or place of profit under or at the disposal of the council. 3. Being an officer on full pay in the naval or military service. 4. Being "directly or indirectly, by himself or his partner, engaged or interested in any contract or employment with the council, or on behalf of the council" (but it is provided that this shall not disqualify any mere proprietor of a joint-stock company contracting with the council); 5. Being of unsound mind. (Clause 20).

Any unqualified person who may act as councillor, &c., is liable, as will hereafter be seen, to a penalty. But this liability can only be determined by suit, at law (clause 49). The returning-officer is not, therefore, to constitute himself the judge as to whether a person is or is not disqualified; but, if the latter has been duly nominated, and does not himself raise the question of his disqualification, must allow things to take their course. A man may be disqualified when nominated, but qualified ere he is called upon to serve. For instance, if a military officer on full pay may have resigned his commission, or if employed under the council he may have given up his employment. But the case is different if it should be admitted on all hands that a person nominated is not an elector. For in such a case no subsequent acquisition of an electoral qualification will suffice. And none but electors, as has already been shown, have any right either to become candidates or to nominate others.

37. Besides the disqualification imposed by the Act, there are exemptions. The persons exempted are—1. Ministers of religion. 2. Persons disabled by deafness, blindness, or other bodily infirmity. 3. Persons above sixty years of age. 4. Persons who within three years have already served "the like office," or have paid the fine for not accepting of or resigning the same, or for absence therefrom. 5. Members or officers of the Legislative Council or Legislative Assembly. 6. Persons whose usual place of abode is not situate within the municipality (clause 46). But the persons thus exempted can serve, if elected, and if they think fit. The peculiarity of their position is that they cannot be compelled to serve in any way, or fined for refusing or neglecting to do so. But if the electors choose to return persons so situated, they have an undoubted right to do it. No question must, therefore, be entertained by the returning-officer as to the exemption of any candidate from compulsion to serve.

38. "If from any cause any election under this Act shall not take place on the day appointed for the same it shall stand adjourned until the same day of the following week" (clause 43). The use of the words "any cause" shows the intention to have been to give such a margin for postponement as that no election could possibly be prevented by misadventure. Thus, even if the returning-officer were wholly absent, the meeting would stand adjourned for a week by operation of law. But the returning-officer would, in such a case, be liable to punishment for his neglect, unless it arose from circumstances wholly beyond his control (clauses 71 and 89).

39. A returning-officer would have the power of adjourning any election for sufficient cause such as riot, flood (preventing the coming up of electors), or the like. The adjournment in every case must be until that day week. A presiding officer could, in case of serious riot (such as prevented the poll from being taken) adjourn the election at his particular polling place, and thus, in effect, cast over the whole election for a week. For the election would be adjourned to a week, the day to which it has been adjourned is as much "the day appointed for the same," within the meaning of the Act, as the day named in the original notice of such election.

40. In case a chairman, when it is his duty to act as returning-officer, should be ill or absent, &c., the Council may appoint one of their own number so to act (clause 57). But this does not affect the right of the chairman, as such returning-officer, to appoint his own substitute. And if he makes such an appointment, the council can in no way interfere with it.

(To be continued.)

(The following paragraph, which should have formed section 30 of Chapter II, was omitted.)

30. There have been doubts raised in some quarters as to whether there can, under any circumstances, be two votes for one property. The question does not seem to be one involving any difficulty. If two persons are *bona fide* joint-tenants of a property each is responsible for the rates, and therefore "liable to be assessed" within the meaning of clause 11. If both are resident the goods of both can be distrained upon. Persons so situated should see that they are jointly assessed, and then no question can even be raised. But if only one has been assessed, and the second claims (with the concurrence of the first) to be regarded as a *responder* in order that he may vote, he is exempt from the poll for refusing to serve as councillor or chairman, as the case may be, if within three years he has served "the like office." Any person who is disqualified under this Act, or has paid a fine in lieu of such service.

"That is to say, a person who has been declared on competent (legal) authority to be of unsound mind. He is, besides those which have been mentioned, other disqualifications, according after election to office. These will be noticed as they come.

"Service as an auditor will not exempt an elector from liability to serve as a councillor, or vice versa. But a person will be exempt from the poll for refusing to serve as councillor or chairman, as the case may be, if within three years he has served "the like office." Any person who is disqualified under this Act, or has paid a fine in lieu of such service.

deemed "electors" and both consequently must have a right to vote as such. The tenant is the person primarily liable (clause 79), and it is against his goods that a distress warrant goes (clause 80). But wherever the premises are unoccupied, or if, when occupied, the proprietor is made responsible (clause 80). There is a proviso (clause 79) that nothing contained in the Act "shall prevent any private arrangement between landlords and tenants, as between themselves, with respect to their ultimate liability to rates respectively." But this provision, as it does not affect the responsibility of both parties to the municipality cannot affect the municipal rights of either.

BRISBANE.—In section 28 of Chapter II. (Wednesday's Herald), third line from end of the section, for "persons named thereon as holding," &c., read "persons named thereon as holding," &c.

## VICTORIA.

From the Melbourne Age of Saturday, the 9th instant.

Just to hand, we quote as follows:—The Melbourne correspondent of the *Railroad Star* writes: "The Chinese residents are in a state of unusual excitement. It appears that the cause of this is the arrival in the bay of a ship named the *Therny*, from Hongkong, the cargo of which is supposed to be composed of opium. The cargo, being valued at something like £120,000, and of course, being something considerable. Rumor says that the firm in question has been endeavouring to get the ship to land its cargo at Melbourne, and in the event of success, to sell the opium at a high price. The news of the late arrival of Chinese dutiable goods had not reached China when the *Therny* left for Melbourne. Further revelations may be expected before long, and it is not unlikely that the Chinese puzzle has been solved, and that the opium will be so partitioned followed up as to prevent Celestial smuggling for some time to come."

From returns obtained from the Immigration Depot, Queen street, it would appear that the immigrants brought out to this colony under the auspices of Mr. Knight, and under the Government regulations, have not experienced much difficulty for any length of time, in obtaining work, though not always of the kind to which they have been used in their country. There also seems to be a steady demand for imported labour, especially of that of farm servants.

The family affairs of Dr. Hunter formed the subject of complaint yesterday in the District Court. On the 25th of last month, Dr. Hunter's wife died. Her husband is now in Dunedin; that he left behind him a carriage and a carriage, with other property; that the carriage has been sent after him, and the furniture is shortly to follow; that she has no means of support, and is now in a state of destitution; that a part of the property left by her husband is in possession of the *Monte Piete*, Elizabeth street, and part in the possession of Mr. Lockett, of the same street. After hearing complainant's case, the Court ordered a writ of *habere corpus* to issue, and other property sufficient to cover the amount of maintenance in arrears.

We take the following from the agricultural report of the *Railroad Star*:—"Last week we pointed out an example of the sort of farming which is now being carried on in the district of Mr. Monk, at Burrenmore, is now growing the ninth crop from unmanured land. It consists of oats, which are seven feet high. On the 10th of last week, the temperature was 64° in the shade, and 64° at the surface of the soil. The yield of gooseberries is everywhere most abundant, and Mr. McIntosh, of Myrtle Grove, has lately been selling five pounds worth each day. Of other fruits, we have heard of several sorts, but not withstanding the recent heavy rains. The vines are healthy, and promise to yield an abundant supply of grapes. In the Castlemaine district, almond, fig, and plum trees are heavily laden with fruit.

"Don't minor or overdo the bird," observed a farmer at Wimmera, "says the *Star*," "the day after a large flight of crows alight in a paddock of wheat belonging to him. Thinking that the crows were taking the wheat he procured a gun and shot several of them. The crows, however, were not hurt, and the farmer at Wimmera, says the *Star*, "the day after a large flight of crows alight in a paddock of wheat belonging to him. Thinking that the crows were taking the wheat he procured a gun and shot several of them. The crows, however, were not hurt, and the farmer at Wimmera, says the *Star*, "the day after a large flight of crows alight in a paddock of wheat belonging to him. Thinking that the crows were taking the wheat he procured a gun and shot several of them. The crows, however, were not hurt, and the farmer at Wimmera, says the *Star*, "the day after a large flight of crows alight in a paddock of wheat belonging to him. 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a half days' work per week, the mills will work only four days. The plan will be to have the mills work four days a week, and the workers will have a half day's work on the fifth day.

a half day's work per week, the mills will work only four days. If so, no conjectures, in opposition to the statement of the month of January, at any rate, must be expected to be met by a considerable portion of this supply will be available; so that, upon the whole, instead of seeing the cotton trade languish at the very beginning of the year, and continue active at the rate of four and a half days a week, we must expect to wait till spring for the recovery, and then deduct half a day per week from the average working time of the mills.

To deny it, afford, in such a matter, to disagree with and not to dissent from, is a very different thing to deny that that even those modified prospects are higher or than any views which we could have entertained six months ago. If the two estimates before us are taken together, the gloom prevailing on the subject, we may come to our own reflection that nobody in Lancashire anticipates anything but an improvement, more or less, in the condition of affairs. The cotton trade will be a good deal better than it was a few seasons, and with this happy event will vanish, we hope, all serious traces of Lancashire distress. It is, however, by no means clear to us that the cotton trade is so much improved, and its worth is necessarily impeached by Mr. Cheetam of our correspondent this morning. Of course, in a matter where so much is left to conjecture, it is hard to come to a definite conclusion, but such information as we have at present is rather calculated to heighten than obscure our prospects. If we take Mr. Ashworth's figures with those of Mr. Cheetam, we shall find the difference arises out of the fact that the latter has estimated the quantity of supply—there is no material difference between their calculations, while as respects *value* and *price* they are entirely agreed. Under the latter of Brazil, with the West Indies and America, Mr. Cheetam has estimated the supply of some 450,000 bales, but then he throws into this item the scuttings from Australia and Africa, of which Mr. Cheetam makes no account; while, on the contrary, the latter gentleman puts the probable import from the West Indies at 100,000 bales less, the miscellaneous receipts from quarters which he has neglected might, perhaps, bring the two estimates to a level. In point of fact, the difference between the two calculations to be made of our imports from Turkey, is entirely with our correspondent in attaching extreme importance, on many grounds, to this particular item in the estimate. Whether Turkey supplies 150,000 or 200,000 bales, is a matter which he will, or whether her exports are limited to 150,000, as Mr. Cheetam imagines, it will still be impossible to dispute the value of this supply. Here we have no doubt the most powerful facilities for raising cotton close at our doors. If we suppose the supply is good—and we do not see it complained of—there is no reason why the Sultan's dominions should not hold their own even against a revived American trade. If we suppose the Turkish estimate of a supply of 2,000,000 bales from the coasts of Asia Minor, and the result Mr. Cheetam regards

of the present is certainly ultimately improbable. The only way of making us at present concerned the crop of the country is by the possibility of a serious drought, by-and-by, and even on this point there is much that on any assumption is assuring. Turkey began in 1862 with an export of just 100,000 bales, and no more. But she has since multiplied this produce, and sent us 40,000. Even this is a very small quantity, and she will quadruple this supply again, and export 150,000, while Mr. Ashworth anticipates not fewer than 250,000 bales from this quarter. But the fact that she exports so much attracts attention to the fact that even the deduction of Mr. Cheatham from the estimate of his opponent is due to accident alone. Except for a bad season, it seems to be hardly estimated that the supply from Turkey would show an increase of 100,000 bales. There has been no exaggeration in the views taken of the silk produce of the country, but the ravages of the locust and other causes have combined to reduce the quantity of the produce to a very small amount. In fact, the question between us has been a marvellous crop. Mr. Ashworth turns upon the drawback to be allowed for this enormous calamity. If Turkey does not send us 200,000 bales, she would undoubtedly have sent us 100,000 bales, and more too, but for the accidents of the season.

It was precisely such a calamity as this which diminished the Indian exports of the present year, and it is therefore to think that the deficiency in the Turkish supply is due to the same cause. The increase of the forthcoming supply from India, Mr. Cheatham does not look at Indian cotton very favourably, but the receipts from that country constitute nearly one-third of our whole importations, and a general crop of the country would be a very large total supply. Now, we know from the very latest advices that the Indian crop is "most promising." In another month or so we shall get full information on the subject, and we should just last week a letter from our correspondent in that country, with assurances of an abundant yield. There was a large increase of ground under cultivation, and the season had been very favourable, so that we ought now to get all at once, the benefit of the stimulus applied to the cultivation of the country. The result, we should suffice, we think, to counterbalance such failures as may perhaps be anticipated in quarters of less importance; and we are disposed therefore to be sanguine of the result. Mr. Ashworth's estimate may be substantially realised, and the quantity of India cotton of 2,000,000 bales as excessive on the whole, though the aggregate may be composed of contributions in unexpected proportions.

The following is Mr. Cheatham's letter referred to in the foregoing article:—

"The question of our future cotton supply, bearing as it does so immediately upon the employment of the people of this district, was not inappropiately introduced into the discussion of the Budget by the Committee, and, after an interesting discussion, the Committee adopted a statement furnished by Mr. Edmund Ashworth, and appended it to their report. As I think my friend has taken rather too sanguine a view of the prospects of the cotton trade, I thought I would before your readers the conclusions at which I have arrived from a perusal of the public and private correspondence in my possession.

"At the request of the committee of the cotton

the British consuls resident in cotton growing countries to report upon the prospects of supply for 1864. Most of these gentlemen have made their reports, and

The British census resident in cotton growing countries, to render the prospects of supply for 1864. Most of these gentlemen have made the most exact, and much valuable information has thereby been obtained. The statements, however, of these gentlemen, or of private correspondents resident in these countries, and the conclusions drawn from them, can only be an approximation to the truth, and may consequently be fairly open to question and difference of opinion.

"The import of last year (1862) was as follows:—

America.....	71,700 bales
Brazil.....	133,890
Egypt.....	185,000
Turkey.....	10,000
East Indies.....	1,072,000
West Indies, &c.....	11,000
Total.....	1,445,000 bales.

"The imports of this year (1863) I estimate to be, from

America.....	100,000 bales
Brazil.....	150,000
Egypt.....	200,000
Turkey.....	10,000
East Indies.....	1,200,000
China.....	150,000
West Indies, &c.....	20,000
Total.....	1,860,000 bales.

Increase, 415,000 bales, or 30 per cent.; and this estimate, judging from the imports already received, appears likely to be realised.

"Taking the consumption of 1860 as our guide, three days' employment per week would require

11,760 pao week, a total weekly supply of 36,000, or 1,872,000 bales for the year, would be necessary. But the consumption for forty weeks of the present year, to the 9th of October, appears to have been 1,700,000 bales per week, and exports of 12,000 per week, making the probable requirements of the year to be 2,119,000 bales, or an excess of 259,000 bales over the estimated import. It is the prospect of this result which has given encouragement to speculation, and led to the present unprecedented advance in the price of the article, in which I cannot but think will place in jeopardy the continuance of the time at present worked by the operative classes.

"I estimate the imports for the coming year (1864) to be as follows:

America	100,000 bales
Brazil	185,000 "
Egypt	300,000 "
Turkey	150,000 "
Italy	25,000 "
Spain	20,000 "
Other countries	20,000 "

East Indies .....	1,500,000	"
China .....	150,000	"
<b>Total.....</b>	<b>2,445,000 bales.</b>	

Increase upon 1883 325,000 bales or 31 per cent. A

[illegible]

of the house. They had broken all the doors, and had everything of any value packed up to carry away. The natives arrested them on the spot, eleven in all, and conveyed them to the island, where they were searched, and Mr. Brockham's pocket-book, containing two hundred dollars, was found on one of them, and his gold watch on another. Mr. Brockham's relatives say he had five thousand dollars in gold, and three or four thousand in cash, in an iron chest, which he had taken with him. He said his escape must have had the money. The quickest stationer at the island, on hearing of the murder, repaired immediately to the spot, and made every exertion to recover the bodies. His efforts were, however, without success for a third day, when the tide drew so far out, that the bodies were brought out of the water; they presented a frightful and ghastly appearance. The little girls had worn their hair rings, which had been torn out of their ears, and their bodies presented marks of great violence. Numerous cuts and bruises were visible on the various parts of their bodies and heads, and, from the best evidence, it is certain that the eldest girl, Laura, had been violated. The negroes, on their examination, made a confession of all the circumstances, and were released and stated positively that the murderer was Master Peter, a runaway slave, from Captain Crown. They declared that the last words he said to them when they left the island, were, "This is the last time I have sent you. Don't come back again until you have accomplished my orders." Crown was immediately released, and taken to the jail at Columbia, Kentucky, but was immediately released upon the ground of insufficient evidence. NO ONE COULD NOT BE TAKEN.

In my opinion, "Sautions" did quite right in calling

After a contract to the Government.  
In my opinion, "Nauticus" did quite right in calling attention to this, because a good many of the merchant shippers are prone to ape the man-of-war.  
Hoping you will insert this in your journal,  
I remain, yours truly,  
AN OLD MAN-OF-WAR'S-MAN.  
Sydney, 14th January.

**FUNERAL.**—The Friends of the late Mr. ALFRED CHABET are respectfully invited to attend his funeral, on SATURDAY MORNING, the 16th instant. The procession to leave from his late residence, Burlington, at eight o'clock, via the C. & N. Y. R. R. to DIXON, undertaker, South End road.

**FUNERAL.**—The Friends of Mr. GEORGE & THORNTON are requested to attend the funeral, to move from his late residence, Devonshire-street, on SATURDAY AFTERNOON, at 5 o'clock. JOHN HILL, and SONS, undertakers.

JUST PUBLISHED, prices 12s. 6s. 1s. SANDS' SYNOPSIS and SUBURBAN DIRECTORY for

**DR. LA'MERT ON SELF-PRESERVATION—**  
Just published, price one shilling, post free for four-  
teen stamps, sold in Sydney, at Mr. ROBERTS', 281. Pitt-  
street.

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**Nervous and Physical Debility resulting from injurious**  
**habits or excesses. By Dr. LA'MERT, 37, Bedford-square.**

Patients residing in Australia can be treated successfully by correspondence, on minutely describing their cases; and remedies prepared expressly for each particular case will be forwarded to any address, with safety and secrecy, to all parts of the world. 37, Bedford-square, London.

**A** **CHIEF OFFICER** Wanted for the barque *Juvena*; also a **COOK** and **STEWARD**. Apply on board, off Smith's Wharf, from ten to one.

**A** **LADY** wishes to obtain a **SITUATION** in the country, where she would undertake the education of two or three children; accomplishments included.

Address: G. S. HUNNELL, Office.

**A**DRESS and MANIÉ MAKER, who has had several years' experience in cutting out and management of a work-room, wishes for an ENGAGEMENT; has a sewing-machine. Address Mrs. HUGHES, 103, Palmer-street, Woolloomooloo.

**B**OAT.—Wanted, a good ship's Jolly Boat, 16 to 18 feet long. Apply to Mr. LOOKE, Looker's Wharf.

**B**ALMAIN.—Wanted, to rent a HOUSE containing not less than 6 rooms and kitchen. Address P. H., HERALD Office.

**D**RESSMAKING.—Vacancy for an APPRENTICE. Mrs EDWARDS, 206 Palmer-st., late of William-st.

**E**MPTY FINE BOTTLES wanted, by J. B. NORRIS, 1, Wyndham-street.

**E**MPLOYMENT WANTED, by a steady sober man,  
in a store or otherwise; can write, keep accounts—  
used to the grocery. Would give security if required.  
Address S. D. HERALD Office.

**L**AD WANTED. 550, George-street, opposite the  
Cathedral.

**M**ATERNAL HOME—A GENTLEWOMAN,  
with a view to the education of her children, desires to  
engage a governess for her children, who are of the  
ages of 10, 8, and 6 years.

**M**RS. LAYNE has completed the education of two young ladies in the preparation for the higher studies in the Latin Literature, the highest reference. Address V. I. Z. Herald Office.

**M**ELBOURNE AND NEWCASTLE MINING COLLIERIES COMPANY.—MANAGER REQUIRED.—Applications for the office of manager of the above Company's Sydney Branch (vacant by the resignation of Mr. A. Cunningham) are requested to be made on or before the 15th inst. to the General Manager, at the office of the Company, No. 5, Exchange, Pitt-street, Sydney.

**P**ARRAMATTA.—Wanted, immediately, two thoroughly efficient HOUSE SERVANTS. Apply Mrs. FAWCETT, Pitt-street, Sydney.

**PARTMENTS, Furnished or Unfurnished.** *Spacious view of the Bay.* 5, Harcourt-street, *Woolloomooloo.*

**PARTMENTS for Gentlemen, or Lady and Gentlemen.** *Apply to* **RIGHT, 187, Princes-street, Williams-st.**

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